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In re Application of :
SUBRAMANIAN et al. :
Application No.: 10/070,282 : DECISION ON REQUEST
PCT No.: PCT/US00/24142 :
Int. Filing Date: 01 September 2000 :
Priority Date: 07 September 1999 :
Attorney Docket No.: PER0020 :
For: QUATERNARY AMMONIUM SALTS AS
THICKENING AGENTS FOR AQUEOUS
SYSTEMS

This decision is in response to applicants' "Request for Correction of Inventorship Under 37 CFR 1.48(a)" which is being treated as a request under 37 CFR 1.497(d) filed 15 April 2002.

BACKGROUND

On 01 September 2000, applicants filed international application No. PCT/US00/24142 which claimed a priority date of 07 September 1999 and designated the United States. The international application named Shankar Subramanian, Mojahedul Islam, and Cent Burgazli as inventors. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 07 March 2002.

On 04 March 2002, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia*: the requisite basic national fee and a copy of the international application.

On 15 April 2002, applicants filed "Petition to Correct Inventorship under 37 CFR 1.48(a)."

On 07 May 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

DISCUSSION

In the instant case, the international application named Shankar Subramanian, Mojahedul Islam, and Cent Burgazli as inventors. Applicants request to delete Mojahedul Islam as an inventors and add Shawn Zhu, Yun-Peng Zhu and David Feuerbacher as inventors. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

- (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;
- (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a);
- (3) the fee set forth in 37 CFR 1.17(i); and
- (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicants have satisfied items (1) and (2).

Regarding Item (3), Deposit Account No. 23-2656 has been charged the processing fee of \$130 as set forth in 37 CFR 1.17(i).

In regard to item (4) above, the written consent of the assignee is not acceptable. The consent of assignee is executed by the Assistant Secretary and the petition does not aver that Assistant Secretary has the authority to provide consent for the assignee. Therefore, applicants are requested to file an additional written consent of the assignee that provides the name and title of the individual with authority to act on behalf of the assignee. Section 201.03 of the M.P.E.P states in part that:

"The title of the party signing on behalf of a corporate assignee and the authority to do so should be set forth in the written consent. Consent of a corporate assignee may be signed by an officer (e.g., president, vice president, secretary, or treasurer) of the corporation or may include a statement in oath or declaration form that the person signing the consent has authority to do so. Further the assignee must establish its ownership of the application in accordance with 37 CFR 3.73."

For the reasons discussed above, it is inappropriate, at this time, to grant applicants request for correction of inventorship.

B. Defective Declaration

The declaration filed 15 April 2002 is not acceptable under 37 CFR 1.497. Specifically, the declaration is executed by Cenk Burgazli, whereas the international application lists the inventor as Cent Burgazli. As stated MPEP 201.03,

a request under 37 CFR 1.48 will not be required: (B) Where a typographical or transliteration error in the spelling of an inventor 's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required.

Applicants have not provided an explanation of the typographical or transliteration error of inventor Cent Burgazli.

In that an acceptable declaration of the inventor(s) has not been submitted, the application cannot be accepted into the national stage at this time.

Deposit Account No.23-2656 has been charged a \$65.00 surcharge fee under 37 CFR 492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date, as authorized.

CONCLUSION

For the reasons discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 07 May 2002 is **VACATED**.

A proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. A proper response must include a written consent of assignee in compliance with 37 CFR 3.73(b) and the response must be accompanied by an acceptable explanation of the typographical or transliteration error of the inventor on the present declaration. Failure to file a proper response in a timely manner will result in ABANDONMENT of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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